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May 9, 2005

Highlights of the Conference Report to Accompany H.R. 1268 – Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005

The Conference Report, H. Rept. 109-72, was filed on May 3, 2005.

Noteworthy

- On May 5, the House passed the conference agreement to accompany H.R. 1268 by a vote of 368 to 58. The Senate is expected vote on the conference report early this week.
- The conference agreement includes \$82.04 billion for operations in Iraq and Afghanistan, the war on terror, tsunami relief and rehabilitation, and other activities; the total amount provided is the same as the President's request [see title-by-title totals on page 2].
- The conference agreement includes \$75.9 billion for defense-related programs, primarily the costs of continuing operations in Afghanistan and Iraq. It also includes \$4.1 billion for International Security Programs (foreign aid).
- The conference agreement includes \$907.3 million for Indian Ocean tsunami relief, including \$656 million for the Recovery and Reconstruction Fund.
- The conference agreement includes most of the language contained in Division B as passed by the House, which is the Real ID Act of 2005.
- The conference agreement includes the modified Mikulski amendment that was adopted by the Senate, which increases the numerical limits for H2-B visas for certain temporary seasonal workers.

Highlights

	<u>Bush Request</u>	<u>Senate-passed Bill</u>	<u>Conference Agreement</u>
Title I (Defense Related)	\$75.0 billion	\$74.8 billion	\$75.9 billion
Title II (Int'l Security Programs)	\$5.6 billion	\$4.1 billion	\$4.1 billion
Title III (Domestic War on Terror)	\$418.3 million	\$1.2 billion	\$1.2 billion
Title IV (Indian Ocean Tsunami Relief)	\$949.6 million	\$907.3 million	\$907.3 million
Title V (Other Emergency Approps.)	<u>\$101.8 million</u>	<u>\$243.4 million</u>	<u>\$123.9 million</u>
TOTAL¹	\$82.04 billion	\$81.22 billion	\$82.04 billion

Bill Provisions

DIVISION A – Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief

Title I – Defense-Related Appropriations

Military Personnel:

Conference Report: The Conference Report provides \$17.4 billion.

Senate-passed bill: Provided \$17.5 billion for the Department's Military Personnel, which is \$662.7 million above the President's request, and \$379.6 million above the House-passed bill.

Operation and Maintenance:

Conference Report: The Conference Report provides \$37.1 billion.

¹ Figure totals were taken from H. Rept. 109-72. Any difference in the totals is due to rounding.

Senate-passed bill: Provided \$37.4 billion for Operation and Maintenance accounts in support of Operation Iraqi Freedom and Operation Enduring Freedom, which is \$637.3 million below the President's request and \$129.5 million below the House-passed bill.

Procurement:

Conference Report: The Conference Report provides \$17.4 billion.

Senate-passed bill: Provided \$15.9 billion for procurement in various procurement accounts, which is \$264.4 million below the President's request, and \$2.4 billion below the House-passed bill.

Research, Development, Test and Evaluation:

Conference Report: The Conference Report provides \$587.3 million.

Senate-passed bill: Provided \$552.3 million in various research, development, test, and evaluation accounts, which is \$92 million above the President's request, and \$44 million above the House-passed bill.

Revolving and Management Funds:

Conference Report: The Conference Report provides \$1.5 billion.

Senate-passed bill: Provided \$1.3 billion for Revolving and Management Funds, which is equal to the President's request and \$100 million below the House-passed bill. Nearly all of the funding provided is for the Defense Working Capital Funds, except for \$32.4 million for the National Defense Sealift Fund.

Other Department of Defense Programs:

Conference Report: The Conference Report provides \$452.7 million.

Senate-passed bill: Provided \$452.7 million for a range of Department programs. This funding includes: \$225.6 million for the Defense Health Program; \$227 million for Drug Interdiction and Counter-Drug Activities (only in Afghanistan and Pakistan); and \$148,000 for the Inspector General.

Related Agency:

Conference Report: The Conference Report provides \$250.3 million.

Senate-passed bill: Provided \$250.3 million for the Intelligence Community Management Account, which was equal to both the President's request and the House-passed bill.

General Provisions: The Chapter includes a number of general provisions on a range of issues. Of note, Section 1012 increases the maximum amount payable under Servicemembers'

Group Life Insurance to an amount of \$400,000. Section 1013 increases the death gratuity payment to an amount of \$100,000 in cases when death results from wounds, injuries, or illness that are combat-related or occurs in a combat operation or combat zone.

Military Construction:

Conference-Report: The Conference Report provides \$1.1 billion. Of this funding, \$847.2 million is for **Army** military construction; \$139.9 million is for **Navy and Marine Corps** military construction; and \$141 million is for **Air Force** military construction.

Senate-passed bill: Provided \$897.2 million for **Army** military construction, which is \$92.9 million below the President's request and \$32.9 million below the House-passed bill; \$107.4 million for **Navy and Marine Corps** military construction, which is \$14.7 million above the House-passed bill (the President did not submit a request); and \$141 million for **Air Force** military construction, which is \$160.5 million below the President's request and \$160.4 million below the House-passed bill.

Title II – International Security Programs

Chapter 1: Department of Agriculture

Public Law 480 Title II Grants:

Conference Report: The Conference Report provides \$240 million.

Senate-passed bill: Provided \$470 million to reimburse the “Public Law 480 Title II Grants” account, which is equal to both the President's request and the House-passed bill. This spending is used to address emergency food needs for individuals in need of humanitarian assistance in the **Darfur Region of Sudan**.

Chapter 2: Department of State

Diplomatic and Consular Programs:

Conference Report: The Conference Report provides \$734 million.

Senate-passed bill: Provided \$357.7 million for Diplomatic and Consular Programs, which is \$9.5 million below the President's request and \$9.2 million above the House-passed bill.

Embassy Security, Construction, and Maintenance:

Conference Report: The Conference Report provides \$592 million.

Senate-passed bill: Provided \$592 million for construction of a new embassy compound in Iraq, which is \$66 million less than the Administration's request. Although the House-passed

bill does include \$592 million, it includes a provision that prohibits the use of such funds for embassy construction.

Contributions for International Peacekeeping Activities:

Conference Report: The Conference Report provides \$680 million.

Senate-passed bill: Provided \$680 million for Contributions for International Peacekeeping Activities, which is \$100 million below the President's request, and \$100 million above the House-passed bill.

International Broadcasting Operations:

Conference Report: The Conference Report provides \$4.8 million.

Senate-passed bill: Provided \$4.8 million for International Broadcasting Operations, which is equal to the President's request and the House-passed bill.

Broadcasting Capital Improvements:

Conference Report: The Conference Report provides \$2.5 million.

Senate-passed bill: Provided \$2.5 million for Broadcasting Capital Improvements, which is equal to the President's request. The House-passed bill did not include similar funding.

United States Agency for International Development (USAID):

Conference Report: The Conference Report provides \$116.9 million.

Senate-passed bill: Provided \$133.9 million for USAID in funds appropriated to the President, which is equal to the President's request and \$13 million above the House-passed bill.

Other Bilateral Economic Assistance:

Conference Report: The Conference Report provides \$1.4 billion for the Economic Support Fund. Of this funding, \$1.1 billion for **Afghanistan**, \$100 million for **Jordan**, \$200 million for **Palestinians**, and \$20 million for **Haiti**; \$5 million for **Lebanon**; and \$22 million for **Sudan**.

Report Language (Palestinian Authority): The Committee reiterates that conditions and restrictions on assistance for the **West Bank, Gaza, and the Palestinian Authority** contained in the General Provisions section of Division D of Public Law 108-447 (FY04 Omnibus) shall apply to assistance for the West Bank and Gaza in this bill.

Senate-passed bill: Provided \$1.7 billion for Other Bilateral Economic Assistance in funds appropriated to the President, which is \$10 million above the President's request and \$609.4

million above the House-passed bill. Of this funding, \$1.6 billion is for the Economic Support Fund, which includes \$1.3 billion for **Afghanistan**, \$100,000 for **Jordan**, \$200,000 for **West Bank/Gaza**, and \$22,000 for **Sudan**.

Assistance for the Independent States of the Former Soviet Union:

Conference Report: The Conference Report provides \$70 million.

Senate-passed bill: Provided \$70 million for Assistance for the Independent States of the Former Soviet Union, which includes \$60 million for Ukraine.

International Narcotics and Law Enforcement:

Conference Report: The Conference Report provides \$620 million.

Senate-passed bill: Provided \$660 million for International Narcotics and Law Enforcement.

Migration and Refugee Assistance:

Conference Report: The Conference Report provides \$120.4 million.

Senate-passed bill: Provided \$108.4 million for Migration and Refugee Assistance.

Nonproliferation, Anti-Terrorism, Demining and Related Programs:

Conference Report: The Conference Report provides \$24.6 million.

Senate-passed bill: Provided \$32.1 million for Nonproliferation, Anti-Terrorism, Demining and Related Programs.

Global War on Terror Partners Fund:

Conference Report: The Conference Report does **not** include funding for the Global War on Terror Partners Fund. Funding for the purposes of the Solidarity Initiative is addressed under “Peacekeeping Operations.”

Senate-passed bill: Provided \$25.5 million for a Global War on Terror Partners Fund, which is \$174.5 million less than the President’s request. The House-passed bill did not include similar funding. The spending provides economic assistance to partners in the War on Terrorism. Countries directed to receive this assistance include: **Yemen, the Krygyz Republic, Morocco, El Salvador, Mongolia, and Djibouti.**

Foreign Military Financing Program:

Conference Report: The Conference Report provides \$250 million.

Senate-passed bill: Provided \$250 million in funds appropriated to the President for the Foreign Military Financing Program (FMFP). Of this funding, \$210 million is for Peacekeeping Operations (\$200 million of which is for coalition partners contributing forces to operations in Iraq and Afghanistan). Within the FMFP, \$150 million is available for **Pakistan** and \$100 million is available for **Jordan**.

General Provisions: The Chapter includes a number of general provisions on a range of issues. Of note, Section 2106 (which is similar to the Senate-passed provision) includes a reporting requirement for the **Palestinian Authority** (PA) to curb terrorism and provides that up to \$5 million of funds provided for the West Bank and Gaza may be used for an independent audit of the PA expenditures and accounting procedures. Section 2103 (which is the same as the Senate-passed provision) rescinds funds previously available for Turkey under the Economic Support Fund through P.L. 108-11 (FY03 Emergency Wartime Supplemental).

Title III – Domestic Appropriations for the War on Terror

Chapter 1: Department of Energy

National Nuclear Security Administration (NNSA):

Conference Report: The Conference Report provides \$84 million.

Senate-passed bill: Provided \$110 million for the NNSA.

Chapter 2: Department of Homeland Security

Customs and Border Protection:

Conference Report: The Conference Report provides \$124.4 million (which will allow for 500 new Border Patrol Agents).

Senate-passed bill: Provided \$105.5 million for costs associated with hiring, training, equipping, and supporting Border Patrol Agents.

Construction:

Conference Report: The Conference Report provides \$51.9 million for construction (associated with hiring 500 new Border Patrol Agents).

Senate-passed bill: Provided \$41.5 million for construction costs associated with hiring new Border Patrol Agents.

Immigration and Customs Enforcement:

Conference Report: The Conference Report provides \$454.3 million for investigators, detention officers, and detention beds.

Senate-passed bill: Provided \$665 million for 650 border patrol agents, 250 investigators, 168 detention officers, 2,000 detention beds, and training funds.

Coast Guard:

Conference Report: The Conference Report provides \$112 million.

Chapter 3: Department of Justice

United States Marshals:

Conference Report: The Conference Report provides \$11.9 million.

Senate-passed bill: Provided \$11.9 million for the U.S. Marshals Service for needs relating to the protection of Federal judges. Neither the President's request, nor the House-passed bill included similar funding.

Report Language (Judicial Security): The Conference Report states, "Recent events prove a need for increased judicial security outside of courthouse facilities to better detect, assess and respond to threats and inappropriate communications to judges."

Federal Bureau of Investigation (FBI):

Conference Report: The Conference Report provides \$74 million.

Senate-passed bill: Provided \$66.5 million for the FBI, which is \$13.5 million below the President's request, and \$12.5 million below the House-passed bill. Of this funding, \$29 million is for FBI activities in Iraq and \$31.5 million for a Terrorist Screening Center.

Drug Enforcement Administration (DEA):

Conference Report: The Conference Report provides \$7.6 million.

Senate-passed bill: Provided \$7.6 million for the DEA, which is equal to both the President's request and the House-passed bill.

Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF):

Conference Report: The Conference Report provides \$4 million.

Senate-passed bill: Provided \$5.1 million for the ATF. Neither the President's request nor the House-passed bill included similar funding.

Chapter 4: Legislative Branch

Capitol Police:

Conference Report: The Conference Report does **not** include funding for Capitol Police salaries. However, \$11 million in additional expenses for various emergency security requirements are included.

Senate-passed bill: Provided \$23 million for Capitol Police salaries and expenses, which is \$36.2 million below the Administration's request. The House did not include similar funding.

Architect of the Capitol (AOC):

Conference Report: The Conference Report provides \$12.3 million (to complete perimeter security for the Capital Square and design of Capitol Police off-site delivery facility).

Senate-passed bill: Provided \$23 million for the AOC. Neither the President's request nor the House-passed bill included similar funding.

Title IV – Indian Ocean Tsunami Relief

Chapter 1: Funds Appropriated to the President, Other Bilateral Assistance, Tsunami Recovery and Reconstruction Fund

Other Bilateral Assistance:

Conference Report: The Conference Report provides \$656 million.

Senate-passed bill: Provided \$656 million for the Tsunami Recovery and Reconstruction Fund in funds appropriated to the President, which is \$45 million below the President's request, and \$3 million below the House-passed bill. The amount does not include the President's request for modifying direct loans and loan guarantees for tsunami-affected countries.

General Provisions:

Conference Report: The Chapter includes a number of general provisions on a range of issues. Of note, Section 4102 includes a general provision passed by the House, which establishes financial reporting requirements for funds appropriated in this chapter prior to their obligation. Section 4104 is similar to language passed by the Senate providing \$25 million to combat the spread of the avian influenza virus.

Chapter 2: Department of Defense

Operation and Maintenance:

Conference Report: The Conference Report provides \$222 million.

Senate-passed bill: Provided \$222 million for Department Operation and Maintenance to reimburse the military for services provided following the December 2004 Tsunami in Southeast Asia.

Other Department of Defense Programs:

Conference Report: The Conference Report provides \$3.6 million.

Senate-passed bill: Provided \$3.6 million for the Defense Health Program, which is equal to both the President's request and the House-passed bill.

Chapter 3: Department of Homeland Security

United States Coast Guard:

Conference Report: The Conference Report provides \$350,000.

Senate-passed bill: Provided \$350,000 for the U.S. Coast Guard, which is equal to the President's request and the House-passed bill. This spending will fund the incremental costs of U.S. Coast Guard air operations in support of the tsunami relief effort in Southeast Asia.

Chapter 4: Department of Interior

United States Geological Survey (USGS):

Conference Report: The Conference Report provides \$8.1 million.

Senate-passed bill: Provided \$8.1 million for the USGS, which is equal to both the President's request and the House-passed bill. This spending will accelerate improvements of the USGS's seismic monitoring capabilities.

Chapter 5: Department of Commerce

National Oceanic and Atmospheric Administration (NOAA):

Conference Report: The Conference Report provides \$17.2 million.

Senate-passed bill: Provided \$17.2 million for NOAA, which is \$2.7 million more than the President's request and the House-passed bill. Of this funding, \$7 million is for the expansion and enhancement of the United States tsunami warning capabilities; and \$10.2 million is for:

the acquisition of tsunami-detecting buoys; the expansion of the Pacific Tsunami Warning Center; and improvement of the seismic measurements.

Title V – Other Emergency Appropriations

Chapter 1: Department of Agriculture

Cooperative State Research, Education, and Extension Service (CREES):

Conference Report: The Conference Report does **not** include funding for the University of Hawaii.

Senate-passed bill: Provided \$3 million to the University of Hawaii for replacement of research and educational materials lost and recovery of interrupted research resulting from the October 30, 2004 floods. Neither the President's request nor the House-passed bill included similar funding.

Natural Resources Conservation Service:

Conference Report: The Conference Report provides \$104.5 million.

Senate-passed bill: Provided \$103 million for the Emergency Watershed Protection Program. Of this funding, not less than \$66 million is directed to the State of Utah to repair damages to the waterways and watersheds resulting from January 2005 natural disasters in Washington County, Utah. Neither the President's request, nor the House-passed bill included similar funding.

General Provisions: The Chapter includes a couple general provisions on a range of issues. Of note, Section 5103 notes that the provision passed by the Senate that provided \$15 million to the Natural Resources Conservation Service for flood prevention activities in the Manoa Watershed in Hawaii was **not** included.

Chapter 2: Department of Interior & Related Agency

Salaries and Expenses:

Conference Report: The Conference Report provides \$3 million.

Senate-passed bill: Provided \$3 million for Department salaries and expenses to support deployment of critical business systems. Neither the President's request nor the House-passed bill included similar funding.

National Forest Service:

Conference Report: The Conference Report provides \$24.4 million.

Senate-passed bill: Provided \$32 million for the National Forest Service. Neither the President's request, nor the House-passed bill included similar funding. This spending will repair damage to national forest lands damaged by heavy rains, flooding, and landslides. Neither the President's request nor the House-passed bill included similar funding.

Chapter 3: Department of Health and Human Services and Related Agency

Public Health and Social Services Emergency Fund (PHSSEF):

Conference Report: The Conference Report provides \$10 million.

Senate-passed bill: Provided \$10 million for the PHSSEF for grants to one or more State and local governments to improve the Nation's capability to produce essential vaccines. Neither the President's request nor the House-passed bill included similar funding.

Institute of Museum Library Services:

Conference Report: The Conference Report does **not** include funding for the University of Hawaii.

Senate-passed bill: Provided \$10 million to the University of Hawaii to partially offset the costs of damages to the research and educational materials of the University of Hawaii facilities. Neither the President's request nor the House-passed bill included similar funding.

Chapter 4: The Judiciary and Department of Housing and Urban Development

The Judiciary:

Conference Report: The Conference Report does **not** include funding for the Judiciary.

Senate-passed bill: Provided \$60 million for the Judicial Branch, which is \$41.8 million below the President's request. The House-passed bill did not include similar funding.

Housing Programs:

Conference Report: The Conference Report includes the Senate-passed technical correction.

Senate-passed bill: Provided a technical correction to extend the availability of funds for the Housing for Persons with Disabilities program for 2 years, instead of 1 year as provided in the Fiscal Year 2005 Omnibus Appropriations Act. The funds could not be obligated in a 1-year period.

Title VI – General Provisions and Technical Corrections

Emergency Designation Language: The Conference Report includes a provision clarifying the application of designations within the Act pursuant to section 402 of the conference report to accompany Senate Concurrent Resolution 95 (108th Congress). S. Con. Res. 95 of the 108th Congress is the concurrent resolution setting forth the congressional budget for the United States Government for Fiscal Year 2005. The conference report on S. Con. Res. 95 is printed in House Report 108–498, filed in the House of Representatives on May 19, 2004. Section 402 was made applicable to the House of Representatives by House Resolution 649 (108th Congress) and made applicable to the Senate by section 14007 of Public Law 108-287 (118 Stat. 1014).

General Provisions: The Chapter includes a number of general provisions on a range of issues. Of note, Section 6001 limits the availability of funds in this supplemental to the current fiscal year unless expressly provided otherwise.

DIVISION B – Real ID Act

Title I – Amendment to Federal Laws to Protect Against Terrorist Entry

Section 101 – Asylum Reform

The Conference Report overturns the 9th Circuit precedent, which effectively bars immigration judges from denying asylum claims on the basis of adverse credibility determinations.

The Conference Report prevents the 9th Circuit practice of granting asylum to an applicant on the basis that their government believes they are a terrorist, and that, therefore, they deserve asylum because they are being persecuted on account of the political beliefs of the relevant terrorist organization.

The Conference Report applies the common-sense improvements to the credibility and corroboration standards that would be applicable to asylum to other forms of immigration relief, including adjustment of status and cancellation.

The Conference Report eliminates the cap on the number of asylees eligible to adjust their status annually and on the number of aliens fleeing coercive population control methods who may receive asylum annually. Cap elimination will take effect upon enactment.

Section 102 – San Diego Border Fence

The Conference Report authorizes the Secretary of Homeland Security to waive federal laws necessary to ensure the expeditious completion of the San Diego border fence, which has taken

more than eight years because of ongoing litigation.

The Conference Report allows for Federal judicial review of Secretary's actions, but only for constitutional claims such as takings of private property.

Section 104 – Inadmissibility and Deportation of Terrorists

The Conference Report ensures all terrorism-related grounds of inadmissibility to the United States are grounds for deportation from the United States. Conference report allows the Secretary of State or the Secretary of Homeland Security to waive some of the new grounds of inadmissibility. Congress must be given periodic updates on who receives waivers.

Section 106 – Judicial Review of Removal Orders

The Conference Report provides reforms to ensure the prompt removal from U.S. of terrorists and criminal aliens, after the proper judicial review. By restoring judicial review to its former, settled forum, all aliens ordered removed by an immigration judge will be able to appeal to the Board of Immigration Appeals and then raise constitutional and legal challenges to the circuit court, the second-highest courts in the U.S.

Title II – Improved Security For Driver's Licenses and Personal Identification Cards

Section 201 – License Provisions

The Conference Report requires that all states must require proof of lawful presence in the United States for their driver's licenses to be accepted as identification for federal purposes. Clarifies that boarding a commercial airplane, entering a federal building, or a nuclear power plant are among the official federal purposes. States must comply within 3 years of law's enactment.

The Conference Report clarifies that states can issue a second tier of driver's licenses that would not be valid for those federal purposes and that do not have to meet the issuance standards. The terms of these cards would be a maximum of one year.

The Conference Report requires a temporary driver's license issued to a foreign visitor by a state to expire when the visitor's visa expires, with a maximum term of one year.

Title IV – Temporary Workers

The Conference Report includes the modified Mikulski amendment that was adopted by the Senate, which increases the numerical limits for H2-B visas for certain temporary seasonal workers.